

# AN APOLOGY For Purchases of Lands late of Bishops Deans and Chapters.

**T**Here is no Institution to no end; but whenever the reason thereof ceaseth, the Law or Institution it self doth in proportion relax its force. The end for which the Bishopricks were endowed with such ample Revenues, was to support the state and splendor of Barronage and Session in Parliament, wherewith the Bishops were dignified, as with Lay-tees, the *Honoraria* of such their employment, Work and Wages, are relatives: If the employment fails, so doth the reason of the reward; but by an Act of King, Lords and Commons \* 17 Car. c. 28. their being Barons, Lords of Parliament is taken away, and so the reason of their greatness.

The Bishops had severall capacities, viz. Spirituall and Temporall, and severall Revenues \* Dr Cowell's distinguishing by the names of Spiritualities and Temporalities. The Spiritualities of a Bishop (in the words of Dr Cowell \*) be these profits which he receiveth as he is a Bishop, and not as he is a Baron of the Parliament. *Stawford Pl. cor. fol. 132.* The Particulars of these may be the duties of his Visitation, his benefit growing from the Ordering and Instituting Priests, Prestation money, the late Arch-bishop that *subsidium charitativum*, which upon reasonable cause he may require of his Clergy; *Johannes Gregorius de beneficiis, cap. 6. num. 9.* and the benefit of his Jurisdiction; *Joachimus Stephanus de Jurisdic. lib. 4. c. 14. num. 14.* for these reckneth *Exactionem Cathedralis, quartam Decimarum & mortuorum & oblationum pensionem, celebrationem Synodi, Collationem vicarii vel commensuum cum Episcopis Romanis Proficiatur, Jus Hospitalii, Litaniarum & Processionem.* There are none of these sold.

The Temporalities of Bishops in the same Doctors words, be such Revenues, Lands and Tene-ments, as Bishops have had laid to their Seas as Barons and Lords of the Parliament.

In former times when Parliaments were holden frequently almost every year, and uncertainly at severall places, as at *Rutland, Aton, Burnell, Winchester, Exeter, York, Chester, Carlisle*, and other remote parts, the Bishops and Mired Abbots who were Lords of Parliament, could not, without their great estates defray the charge of so great journeys as became their dignity. The Abbots of *Leicester* and *Northampton* being summoned as Lords of Parliament, and setting forth by Petition, that they held not per Baroniam, sed tantum in pura Eleemolyna, were discharged, but the Bishop of *Winchester* holding by Barony and departing from the Parliament without licence, was arraigned in the Kings Bench.

That they held their Lands as Temporall Estates, appears, *Rot. Patent. 18 H. 3. m. 17. Mandatum est omnibus Episcopis, &c. Sicut Baronius sui diligant, nullo modo presumant consilium tenere de aliquibus quoad Curiam Regis pertinent, vel que personam Regis, vel statum suum, vel statum concilii sui contingunt, scilicet pro certo quid si fecerint Rex inde se capiat ad Baroniam suam.* The King did frequently upon their contempts, seize the Temporalities of Bishops into his hands. In time of Vacancy, the King leaving the Spiritualities to the Ordinary, seized the Temporalities into his hands, and granted them during the vacation to whom he list; see *Rot. Parliament. 8 H. 4. num. 91.* The Temporalities of *Durham* granted to *John of Lancaster* the Kings Son, and the Temporalities of the Bishop of *London* farmed out, rendering to the King a Thousand pound per ann.

The King sometimes held the Temporalities a long while in his hands, by delay of the Popes allowance of their Elections, or of the Pall, or of Consecration; sometime there were double and treble Elections and Suites thereupon in the Court of *Rome*, as upon the voidance of the See of *Canterbury*, upon three pretences of *Reynold* the Subprior, *John Gray* and *Stephen Langton*; at another time the Monks of *Rocheſter* chose one *Sandford* for their Bishop, the Monks of *Canterbury* opposed the Election, challenging that the Pastoral Staffe or Croſſer of *Rocheſter* ought of very right to be brought to their house, after the death of the Bishop, and that they ought to make the Election. The difference was once compounded by *Hubert de Burgh* chief Justice of *England*, but afterwards followed afresh at *Rome* three years together. The King in such cases lackt a Lord in Parliament, took the Temporalities to himself, and left the Spiritualities to their proper Guardian; but Lands are no Spiritualities.

*Odo* Bishop of *Bayeux* was Earl of *Kent*, *Osmond* Bishop of *Salisbury* was Earl of *Dorset* and *Seex*, and *Robert Steward* Bishop of *Canterbury* was Earl of *Lenox* and *March*. When the first of these was in displeasure of the King, and privileged as a Bishop, he was yet imprisoned as an Earl, lost all his goods, and was shured the Realme. The Bishops *Pudsey* and *Walcher* were Earls of *Northumberland*. The Bishop of *Durham* was a Count Palatine within his Bishoppricke, where he had *Jura Regalia*, (that is Temporall Courts, Writs, and Proceſs in his own name, a Power to make Justices to pardon offences, and to have Royall Escheats.) The Bishop of *Ely* also had a Royall Franchise within the Isle of *Ely*. The Bishop of the Isle of *Man* had neither, nor was he a Lord of Parliament. So a Bishop may be a Bishop, and no Earl or Lord partake

Bishops.

\* 17. Car. c. 28.

Dr Cowell's Interpreter of Law-words, the late Arch-bishop of Can-terbury.

b 4. Ed. 3. c. 13.

36. Ed. 3. c. 10.

c 10. Ed. 1.

d 11. Ed. 1.

e 13. Ed. 1.

f 14. Ed. 1.

g 4. Institut.

35. 45.

Doderidge of Nobility. 61.

Crompton. 4.

18. H. 3.

h 21. Ed. 3. 3.

5. Rep. 12, 13.

i St Rob. Cot-

tons Abridge-

ment.

Lamberts Per-

ambulation of

Kent in Canter-

bury and Ro-

cheſter. 134.

217. 270.

Camden. 2. 5

215. and in

Scotland. 11.

k Camden.

744. and 820.

l 4. Instit. 1218,

220.

m 27. H. 3. c. 24.

n 4. Instit. Isle of

Man.

in

in the Sovereign or Legislative Power, and then being allowed his Spiritualities, hath all that is due to his Spirituall office.

### Deans and Chapters.

Selden of Tythes. c. 6, 7.

G. M. on Doctor Ridleys view of the civill Law. 197.

Fullers Ecclesiastical History. 7.

\* 4. Instit. 641. 642.

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Dr. Ridley. 153.

By what divine Right or Pretence Deans and Chapters challenge so great Estates, *Non constat*. Were it so that the Gospell were now first planting here as in the *Indies*, and a Bishop set up to advance the conversion of Infidels within such a Circuit, it might be prudentall while there were but few Ministers, and before the distribution of his Dioces into Parishes, to allocate divers Ministers together, who should as Itinerants travell from place to place, for the gaining and confirming of Believers, as anciently in Bootheres or Tents of hurdles, occasionally set up in the fields, or at cross wayes, or other publick places of resort. And in such case their maintenance being brought into a common stock, at the See or residence of their Curator or Bishop in whom they centered their correspondence, those who thus laboured in the Ministry, should out of this common stock have their portions. It is not unlike by the Trace of Antiquity but that it was so in *England*, when a Diocess was but as one great Parish, and Preachers sent about as Messengers. And after inferior or Parochiall Churches were founded at great distance, the Parish Priests had not all the Tythes to themselves, but a man might pay his Tythes to what Priest he would; and in case he neglected to pay any, the Bishop and not the particular Curate of his Precinct recovered them, the Bishops being treasurers of the Community, their making dividends or *Præbenda* of such common stock, to the encouragement of such Ministers as went up and down Preaching, and were not otherwise provided for, was not without Reason. Now if Deanes and Chapters be such an association as make it their businesse to supply places void of Ministers, and enlighten our dark corners, they are worthily to be encouraged; but if they claim shares or dividends out of a common stock, Lands, or Tithes, only as companions to the Bishop, or living in another Diocess, or for vain pomp and grandure, they have no interest in this Reason.

\* *Cambd.* 651. b 248. c. 307. d 232. e 619. f 337. g 238. b 333.

It seems that the Names, Numbers and Functions of Deans and Chapters were not alike but various, *ad libitum* of the founder. For as to Names, at *St. Davids* they were called Canons, at *Salisbury* Prebends. As to number, at *Gloucester*, *Wells*, &c. they were thirty or more; at *Hereford* eight and twenty; at *Canterbury* twelve; at *Bristol* and *Rocheſter* but six. And in their Functions there will be no less difference; if besides that some of them were Elective and some Donative. And besides the differences of Names and Numbers, the meaning of Petty-Canons, Petty-Prebends, Residents, and Non-residents be considered; it seems some of them were Dignitaries *sine curâ*, by their styles of Non-residence, for whom the Church might be as little the better, as for Italians and other aliens, who had benefices here, whom the flock never saw or heard any thing of, but by their Collectors Cellerers and hard Names; the Lord Cardinall of *Agrifolio*, the Lord Cardinall *Viverino*, &c.

4. Inst. 222. *Cambd.* 741. 161. Fuller.

Besides some of the Chapters were anciently Seculars and some Regulars; the Seculars were Presbyters, and as such by their Preaching and conversation, might aid the Bishop in the cure of souls; but Regulars, (*viz.*) Moncks, were lockt up in Cloysters, and seldome or never went abroad. How could such an Institution of a Chapter of Moncks contribute to the oversight of the Dioces? Yet Prior and Convent of Moncks were the Chapters at *Ely*, *Durham*, *Winchester*, *Worcester*, *Carlisle*, &c. and these Chapters were dissolved with other Monasteries, and their Lands vested in the King, who keeping part of the Lands, or converting them to other uses, Erected Deanes and Prebends of a fewer number in their places, and in the New Sees of *Chesſter*, *Gloceſter*, *Peterborough*, &c. What have these New Chapters to do more then the Moncks? in some things nor so much. For the Moncks could by Election fill up void Seates in the Convent, and choose their Bishop and Prior, but many of these can neither chooſe Bishop or Deane, the New Elections having adviſedly made them \* Donative, at the Kings pleasure, and under his immediate Rule and Order, exempt from the Jurisdiction of the Bishop, who could neither deprive nor visit them.

\* 1. Inst. 95. Davis Reports 45. \* *Cambd.* in Ireland 95. b *Britania* 755. c *Leonards Rep.* 235. *Dier.* 58, 283, 12. *Rep.* 71.

Some Bishopricks had no Chapters particularly, the Bishop of *Meath* in *Ireland*, the Bishop there acts by the Counsel and Advice of the Clergy of his Diocesse. The Bishop of the *Ile of Man*, seems to have had no Chapter, for he was anciently chosen by the Moncks of *Fournesse* in *Lancashire*. On the other side, as these Bishops had no Chapter, some had two, as *Coventry* and *Litchfield*. The Bishop of *Dublin* had sometime two Chapters, *viz.* *Christchurch* and *St. Patrick's*, in one Town. A Diocesse of one single County, hath sometimes had two Chapters, as *Bath* and *Wells*, *Waterford* and *Lismore*; whenas the Bishop of *Lincolne*, before the late Erecti- ons of *Oxford* and *Peterborough*, had but one Chapter for his Dioces of eight Counties, and part of more.

### Former Alienations.

Upon this whole matter, if some of them had special Functions which others had not, if some of them were incapable by their Order of Overseeing the Dioces, if *Jus Divinum* fail in the necessity of their Constitution, and if some Diocesess have none, they may be look't upon as voluntary Institutions of several times, and in several manners, that might have been or not been at all. And it will follow, that there was no Moral everlasting Obligation of continuing Bishops, Deanes and Chapters, just in this or that fashion or altitude: witness the Judgment of the late Primate of *Armagh*, in his Sheet lately Printed of the Reduction of Episcopacy. The Lands of Bishops and their Chapters, were not more sacred than the Tithes of Preaching Ministers,



Ministers, but such Tithes by their own old Law have been alien'd : witnesse \* 3845 Vicarages in England, whose Incumbents had nothing but the *Minuta Decima* and altarage, or some Arbitrary Salaries, when the Gleab and greater Tithes were appropriate to Bishops and their Chapters, and in some places to Nunneries, (though Nunnes were incapable of the Ministry.) In other places, to houses of Monks, who seldom or never went without the walls of their Cloysters and Sanctuaries, who possessed not the Tithes as any part of the Evangelical Clergy or Priesthood. In other places, to the maintaining Souldiers in the Warres : witnesse the Gleabs, Tithes, and Exemptions granted to Orders of Knights employed in the holy Warre : witnesse also hundreds of Vicarages, whose Curates very well know, that the Bishops, Deanes and Chapters took the Tithes of their Parishes, but came not at the people. And no doubt, but if Tithes might be thus aliened, much more might Lands. Bishops, Deanes and Chapters, might and anciently did alien their Lands themselves, as well as any other Corporations : witnesse Dorset House, Essex House, Arundell House, Yorke House, Lincolnes Inne, and many other great Houses about London, formerly belonging to the Bishops of Salisbury, Bath and Wells, Carlisle, Norwich, and Chichester, &c. And witnesse the Mannours of Sherborne and Kirton, as by Mr Fullers Histories of, Abbeys 270. and his 17 Century 27.

Sometimes the Kings have Refused Lands from the Church, or Religious Houses so called ; as when the Abbess and Nunnes of Barkley were with Child, their Nunnery was dissolved by Edward the Confessor, their Personal faults punished in their order, and their Lands conferr'd upon a Lay Earl ; when the same King had given the County of Rutland to St Peters Westminster, his Successor resumed it. In Edward the Seconds time, the Lands of the Templars were bestowed upon the Hospitallers ; in Hen. 5. time, the Estates of Priors Aliens, some of which were before frequently seized upon, were all vested in the King. In Hen. 8. time, Cardinal Woolsey, by licence of the King and Pope, suppress fourty small Monasteries to lay their Lands to his two Colledges in Oxford and Ipswich. The Stat. 27. Hen. 8. cap. 28. gave the Lands of 375 Religious Houses, not worth 200<sup>lb</sup> per annum, to the King ; shortly after, he obtained all the Abbeys and Priors, and with them the Lands of the Chapters of divers Bishopricks, consisting of Prior and Covent. The Statutes 37. Hen. 8. cap. 4. and 1 Edw. 6. cap. 14. gave the King the Lands of all Chanteries, Free-Chappels, and Colledges, whereof there were great numbers, as at Plymton, Kirton and St Mary Ottery in Devon, St Marie's and St Chad's in Shrewsbury, Resembling some Deanes and Chapters. These would call their Possessions as sacred and Inviolable as others. Besides the dissolutions of Chapters, and of Deanes and Prebends, a Bishoprick also, hath been dissolved by Act of Parliament, and the Lands vested in the Crown. See Rastall, Title Durham.

After all these suppressions, when at Queen Maries coming in, the See of Rome was again embraced, and the Queen had voluntarily restored some of these Lands, nor a foot was taken from the Lords or Commons, but all their Possessions, notwithstanding the Objections of Schisme and Saerilege, established. And which is very remarkable, the Convocation of the Clergy in the first and second of Philip and Mary, present them a Supplication in Latin, Printed at large, in the Stat. cap. 8. Premising, That though they ought to labour all that might be for the Recovery and Revocation of all Rights of the Church, lost in the Pernicious Schisme, yet having maturely deliberated, they do ingenuously Confesse, that they see the Revocation to be difficult and Quasi impossible, for the many and almost inextricable Contrasts and Dispositions thereof had, and that if it should be attempted, the quiet and Tranquility of the Kingdom might be easily disturbed, and the unity of the Catholick Church would with difficulty attain its Progresse and End. Therefore preferring the Publick good and quiet, and the saving of souls, before worldly wealth, and private advantage, and not seeking their own, but the things of Jesus Christ, they supplicate their Majesty's in their Names, to intercede with Cardinal Poole, then Legate, from the Pope, Ut in hijs bonis Ecclesiasticis elargiendis & relaxandis, Publicum bonum Privato ante ponere velit. Whereunto as they give their own consents, so they pray that he will not be hard or strict.

The Cardinal (by a Dispensation Printed in the same Statute) doth remit and release them to all Persons to whose hands they are come, (Licet inde debite,) Willing and Decreeing, that the Possessors should not, in respect thereof, be molested upon any Decretalls, General or Provincial Councils, &c. and that no Censure or Pain should be insisted on them, for the detaining or not restoring thereof ; and the Statute Ordaines, that whosoever should inquiet or molest any of the Possessors, contrary to the meaning of the Act, should incur the Paines of Premunire. This Supplication, Dispensation and Act, may be Instances of Moderation and Judgment in the Clergy, Resolution and Wisdom in a Parliament, which would not destroy a Family for the holiest Fryer in a Province. Whatever inconsideration or thirst, may otherwise warpe the Ingenuities of such as are led by their private Benefits, to regain what others have thought best to quit, and what fruits of content Charity and the good will, the Experiment will afford them, time will shew.

There hath been a little skill shewn, by superstitious men, in frightening others from intermeddling in these Sales, by stories of misfortune and unluckinesse, in the Lay Possessors of Church Lands. There are few Gentlemen, who know their Counties, that cannot give Instances of such Lands still remaining in the Families to which they were first given. Witnesse great Estates of such Lands in the Lord Marquess of Hertford, of the House of Rutland, and most Eminent

\* Cambden  
161, 162.  
Selden of  
Tubus.

\* Cambden  
362.  
\* Cambden  
526.  
c 2. Inft. 432.

Cambden  
163.

\* Cambden  
101, 203, 206.  
\* Cambden  
596.

Common  
Peace.

1 & 2 P. &  
M. c. 8.

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Selden of  
Tribus.

\* Cambden  
362.  
\* Cambden  
526.  
c 2. Inst. 432.

Cambden  
163.

\* Cambden  
101, 203, 206.  
\* Cambden  
596.

Common  
Peace.

1 & 2 P. &  
M. c. 8.

*Q. of Tave-  
stoke.*

minent Families; and if they have known one Estate in such Lands sold, can say the like of other Estates as great as they. If the Duke of *Somerset*, and Marquess of *Northampton* were shortly attained, and their Monasteries of *Glasconbury* and *Winchcombe* returned to the Crown. On the other side, the Earl of *Westmoreland*, and his partakers in the North, among other things, for the restoring of such Lands, (though they escaped with their lives beyond Sea,) became, wandering Monuments of as great misery and ruine. For the better Test of so many great Estates by Instances of one sort, let the Mitred Abbots be examined, and from thence a judgment made of the rest. There were twenty six, and had no great change till of late; for by Mr. *Fallers* History of Abbots, it appears that divers of them remained in the Crown, viz. *Crowland*, *Selby*, *St. Maries in Torke*, &c. Others in the Private Families on which they were conferred, viz. *Thorney in Russell*, Earl of *Bedford*, *Battell in Browne*, Lord *Montague*, *Midleton in Tregowell*, *Ramsay in Cromwell*, *St. John in Hales*, *St. Albans* in the Heirs of *St. Ralph Sadler*, *Walsbam* in the Earl of *Carlisle*, Heir of the Lord *Denny*. And others to other uses; as *St. Bennet de Hulme* united to *Notwich*, *Westminster* to the *Deme* Prebend, and School there; *Gloster* and *Peterborough* to the Bishops, (Quare the rest.) And if five or six, out of twenty six, have in an hundred years changed their Masters, so have other Estates. And let men beware of saying, That those upon whom the Tower of *Siloam* fell, were greater sinners than they.

If it be granted, that these Institutions of Bishops, Deanes and Chapters, were Prudentiall simply; if they have swartved from some, omitted others, and by Law been ousted of more parts of their Intrustment, though their whole being were not taken away, by that Act of 1641. there was yet Reason, that they might be abated in the Exhibitions allowed them for such parts thereof, as they no longer performed. And so far there may be just ground, of otherwise disposing a considerable part of their Estates.

The Sales, besides the lesse Publique and Generall use of Bishops, and the taking away of all coercive Power from them by another Statute 17. Car. cap. 11. were brought on by other most important Reasons: The Nation groaned under vast Debts, under the burden of a Scorch Army, under a great Army of English, and supernumeraries (more then they;) under the intollerable eating Mouth, Free-quarter: And beside all this, a Warre in *Ireland*, that could not feed it self, but with Supplies from *England*. All these would be Provided for, but the Taxes, which yet were greater then *England* ever knew before, were as nothing to discharge them.

There is no such measure of ill consequence, in the Sale of these Lands, as in keeping up two Armies, supernumeraries, and Free-quarter, or as in continuing Sequestrations upon the Estates of such as were under hardship, or as in such Excesse burdens, as would have destroyed Private mens Estates. If ever necessity lay upon an oppressed People, of resorting to unusual waies of ease, our times have seen it: And constraint goes farre in excusing, what otherwise were not warrantable. Mariners (the Governours of a Ship) may, in extreame Tempest, throw any mans goods over-board, to save the rest.

The same thing may be just or unjust, punishable or not punishable, upon Circumstances. It is the part of an Accuser, rather then a Judge, to determine of Crimes, and not to admit Excuses, and Extenuations. Christ Jesus, the great Pastour and Bishop of our souls, hath taught us, that man was not made for the Sabbath, but the Sabbath for man: The like of *Laws*, *David* and his followers, were Excused for eating the Shew-bread, in extreame hunger, though before then, it were not lawfull for him, or any to eat it, but only for the Priests.

*Restant Multa.*